

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Parts 2, 15, 18 and Other) ET Docket No. 97-94
Parts of the Commission's Rules to Simplify)
and Streamline the Equipment Authorization)
Process for Radio Frequency Equipment)

**REPLY COMMENTS OF
THE NATIONAL CABLE TELEVISION ASSOCIATION**

The National Cable Television Association ("NCTA") hereby submits its reply comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.¹ NCTA is the principal trade association of the cable television industry in the United States, representing cable television operators serving over 80 percent of the Nation's cable television households, over 100 cable programming networks, and manufacturers of cable set-top boxes, cable modems and other cable equipment.

In the Notice, the Commission proposes, among other things, to "simplify" its existing equipment authorization process by deregulating requirements for certain types of equipment.² However, recognizing that its Part 15 requirements play an important role in reducing opportunities for cable signal theft, the Commission also proposes to upgrade its equipment

¹ Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment, Notice of Proposed Rulemaking, ET Docket No. 97-94, released March 27, 1997 ("Notice").

² Notice at ¶ 1.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

authorization process from notification to certification for cable system terminal devices (“CSTDs”) “to ensure against marketing of such devices for theft of cable service.”³

As we said in our comments in CS Docket No. 97-80 (the “Navigation Devices” proceeding), as a general matter the Commission’s proposals to reduce Part 15 regulatory requirements have merit and we support them as long as nothing is done to eliminate any rules upon which the Commission relies to protect against signal leakage and other harms from subscriber-supplied CPE. Of equal if not greater importance, we support the Commission’s decision to require certification of CSTDs to guard against the ever-increasing threat of cable piracy. In this regard, we also support a number of proposals made by Time Warner Cable (“Time Warner”) regarding specific procedures which should be adopted with respect to CSTD authorizations that are also aimed at reducing opportunities for the manufacture and distribution of equipment used to steal cable service.⁴

In its Comments, Time Warner urges the Commission to adopt the following procedures for CSTDs:

1. Applicants seeking FCC equipment authorization for any CSTD should be required to provide a detailed description of the features contained in the equipment for which approval is sought which are designed to prevent unauthorized access to programming, and to prevent unlawful modification of the equipment.
2. Applicants seeking FCC equipment authorization for any CSTD should be required to detail steps taken to ensure distribution of the equipment by legitimate cable equipment distributors, e.g., so equipment cannot be altered and then distributed on the black market.

³ Id. at ¶18.

⁴ See Comments of Time Warner Cable, ET Docket No. 97-94, filed July 21, 1997.

3. The Commission should modify its current certification process as applied to CSTDs to provide that CSTD authorizations will not become final until 60 days after the public notice of the application grant is published.
4. The Commission should adopt a presumption that entities shown to have any affiliation with any party which has engaged in unlawful theft of service activity within the past ten years may not obtain FCC authorization for any CSTD.
5. The Commission should establish an expedited procedure to revoke an authorization where it can be demonstrated that the company or its agent has engaged in illicit theft of service or piracy activities.⁵

Time Warner's Comments discuss in detail the cable signal theft problem that prompted its proposals and we need not repeat those arguments. Suffice it to say that Time Warner presents a compelling case for adoption not only of the Commission's proposals, but also of additional safeguards along the lines of those it proposes. In this regard, however, two of the Time Warner proposals may raise potential troublesome concerns for legitimate manufacturers unless clarified or modified.

First, the proposal that CSTD authorizations not become final until 60 days after the public notice of the application grant is published is intended to give the public an opportunity to examine applications and bring to the Commission's attention any evidence that the authorized equipment is intended to be used for illegitimate purposes. Presumably this proposal was prompted by the lack of a process for pre-grant public scrutiny of applications and the dearth of information required in those applications -- both significant concerns.

While the concerns that prompted the "60-day" post-grant reconsideration proposal are valid ones, the proposed solution also raises concerns for legitimate manufacturers who desire to get their product to market as soon as possible following FCC authorization. The Time Warner

⁵ Id. at 9-10.

concerns and those of the manufacturing community can be accommodated if the Commission were to require more information in the CSTD application and were to put the application out for public comment before it could be granted. During a reasonable pre-grant period (e.g., 30 days) the public should have the opportunity to examine the application except for materials deemed proprietary or otherwise not suitable for public inspection. Interested parties could then bring to the Commission's attention any information which would indicate that grant of the application would not be in the public interest. This procedure would be a significant improvement over the minimal opportunity the public now has to comment on applications, especially if accompanied by requirements that the applicant include more than a pro forma certification in its application.

Second, the Time Warner proposal that CSTD applications include "a detailed description of the features contained in the equipment" also addresses the laudable goal of reducing the opportunity that the FCC's processes will be abused by cable pirates. While, taken in context, it seems clear that the information Time Warner proposes be included in CSTD applications does not include proprietary information, in adopting this proposal the Commission should make clear that such information need not be disclosed to the public during the pre-grant review process discussed above. This clarification should assuage the concerns of legitimate manufacturers while increasing the amount of information available to the public prior to grant of a CSTD application.⁶

⁶ Time Warner (at 9) suggests that the Commission "adopt a standard that prevents unscrupulous companies from manufacturing substandard terminal equipment...." In the context of its proposal, we do not read Time Warner's suggestion as seeking FCC technical standards, but rather that the Commission establish its own internal guidelines for reviewing CSTD applications, require more information in the application than is currently required, scrutinize applications carefully and permit public comment on them, all with the salutary goal of reducing the opportunity of abuse of the FCC's equipment authorization processes.

The cable industry has battled a pervasive and well-organized piracy problem that is estimated to cost \$5.1 billion in lost revenue each year.⁷ In one recently reported incident, the piracy scheme was based on modifying stolen “plain Jane” (non-security) CPE, which was not otherwise available to the perpetrators in bulk.⁸ Indeed, history has shown that with every advancement in cable set-top technology and the widespread deployment of the equipment, cable pirates have found new ways to defeat the security.⁹

The huge embedded base of analog equipment is vulnerable to attack through tampering or the attachment of illegal devices because many of the scrambling or encryption techniques used are relatively unsophisticated. Even addressable analog boxes have been compromised by thieves well-versed in electronic circuitry, forcing operators to institute electronic countermeasures and other methods to fight piracy.¹⁰ In the worst case, a wide scale security breach results in the costly replacement of the scrambling technology at the headend and a change-out of each descrambling unit in the customer’s home.

⁷ NCTA Office of Cable Signal Theft 1995 Survey. The survey was distributed in July 1995 to a random stratified sample of 400 cable systems. A total of 90 systems (23%) reported statistical data based on 1995 data. The systems responding represent 12.7 million homes passed and 7.6 million subscribers. Projected into the cable universe as a whole in each system-size category produces estimates of over 10.5 million illegal non-premium and 5.9 million illegal premium users. Using estimated monthly average rates, the piracy loss translates into over \$5.1 billion in unrealized revenue annually (not including unauthorized reception of pay-per-view programming), or almost 20% of gross industry revenue in 1995.

⁸ See “Crossed Wires: Cable Pirates Sought Plunder but Blundered Into a Major FBI Sting,” Wall St. J., May 12, 1997 at A1, c.6.

⁹ In this regard, we attach to these reply comments a compendium of news reports illustrating the magnitude of the signal theft problem.

¹⁰ See e.g. “Five Arrested in Raids on Alleged Cable TV Theft Ring,” Los Angeles Times, February 14, 1997; “Cablevision Rounds-Up Pirates,” Broadcasting and Cable, February 17, 1997; “A Public-Private Prosecution Prevails,” New Jersey Law Journal, February 17, 1997; “Gunmen Rob 300 Boxes in New York,” Multichannel News, May 6, 1996.


Given this history, the Commission has correctly decided to strengthen its CSTD equipment authorization rules. The absence of any comments opposing that proposal in the initial round of this proceeding is evidence that problems exist which the Commission's Part 15 rules must continue to address. Time Warner's salutary proposals rest on a similarly valid basis.

CONCLUSION

For the reasons stated above, the Commission should adopt the proposals advanced in the Notice with respect to CSTD certification as well as those in the Time Warner Comments as modified by the suggestions herein.

Respectfully submitted,

Wendell H. Bailey
Vice President, Science & Technology


Daniel L. Brenner
Neal M. Goldberg
Loretta P. Polk
1724 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 775-3664

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Counsel for the National Cable
Television Association, Inc.

ATTACHMENT

I keep getting these e-mails telling me how, for a small fee, I can learn how to steal cable service with under \$12 of parts from Radio Shack. Even though the e-mails sometime are signed by different people, each tells the same dopey story about how this guy watched the Tyson-Holyfield pay-per-view fight with his buddy's illegal descrambler, then made the brilliant discovery of replicating the technology for a measly \$12. And now I too can learn about this breakthrough if I just send in \$12 to get the instructions. Lucky me.

This is just one of many piracy pitches on the ragtag supermarket of the Internet. Many of the Web sites selling cable descramblers are laughable,

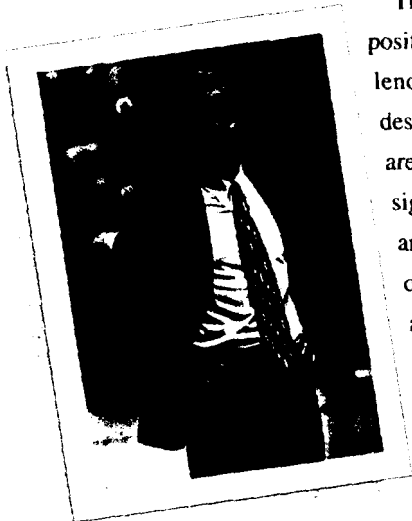
Sink the Pirates

The FCC should issue a loud anti-theft warning

others are disturbing. No matter whether the advertised devices work or buyers heed the retailers' disclaimers, this online wave helps promote the notion that ripping off your cable operator or satellite programmer is fair game. (See story, page 18.)

Now the Federal Communications Commission is engaged in a rulemaking to create a retail market for descramblers, so that consumers can purchase set-top boxes just like they do with telephones. This idea concerns cable security directors, who are urging the commission to limit the retail market to digital set-tops, where they'll at least have a fighting chance against pirates.

The opening of a retail market, while a potentially positive development for consumers, threatens to lend legitimacy to peddlers of unauthorized descramblers, who already claim that their practices are legal. The result could be a catastrophic wave of signal theft on top of what's already a \$6 billion annual problem. The FCC must be careful not to open the floodgates to piracy, and it should do anything it can to support law enforcement efforts. At the least, it should send a loud, clear warning that signal theft is wrong.



Craig Leddy

Editor

Cablevision

VICE PRESIDENT, GROUP PUBLISHER

William McGorry
(212) 887-8544

PUBLISHER

Lawrence W. Oliver
(212) 887-8515

EDITOR

Craig Leddy
(212) 887-8423

MANAGING EDITOR

Laurel Gross
(212) 887-8473

BUSINESS EDITOR

Tom Karver
(303) 393-7449

PROGRAMMING EDITOR

Jim Cooper
(212) 887-8391

SENIOR EDITORS

Simon Applebaum
(212) 887-8555

Marc Osgood Smith
(202) 393-2350

CONTRIBUTING EDITOR

R. Thomas Umstead
(212) 887-8389

GROUP DESIGN DIRECTOR

Isabella Rivera

ART DIRECTOR

Brinda Kulenski

ASSOCIATE ART DIRECTOR

Kadja Williams

ADVERTISING SALES DIRECTOR

Chip Berry

(212) 887-8442

ASSOCIATE ADVERTISING SALES DIRECTOR

Jody Daly

(212) 887-8426

REGIONAL SALES MANAGER

Valerie Denning

(303) 393-7449

GROUP MARKETING DIRECTOR

Bruce Mishkin

(212) 887-8464

MARKETING SERVICES MANAGER

Stacey Rosoff

(212) 887-8512

CONVENTION SERVICES MANAGER

Carolyn Gibson

(303) 393-7449

DISPLAY ADVERTISING COORDINATOR

Elaine Sturges

(212) 887-8372

CLASSIFIED ADVERTISING COORDINATOR

Tim Reeder

(610) 944-4982

ADVERTISING FAX

(212) 887-8332

GROUP PRODUCTION MANAGER

Julie Jacoboff

(212) 887-8588

ASST GROUP PRODUCTION MANAGER

Patricia Baratta

(212) 887-8591

PRODUCTION COORDINATOR

Keith Robinson

(212) 887-8592

GROUP CIRCULATION DIRECTOR

Maris Goodieb

(212) 887-8565

CIRCULATION MANAGER

Edward Mott

(212) 887-8453

ASSOCIATE CIRCULATION MANAGER

Shawn Green

(212) 887-8564

OFFICES

NEW YORK

825 Seventh Avenue, New York, NY 10019

(212) 887-8400, FAX (212) 887-8585

For subscription information:

(212) 887-8467

DENVER

600 S. Cherry Street, Suite 400, Denver, CO 80222

(303) 393-7449, FAX (303) 355-5883

WASHINGTON

1511 K Street NW, Suite 1153

Washington, DC 20005

(202) 393-2350, FAX (202) 393-1931

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Crossed Wires

Cable Pirates Sought Plunder but Blundered Into a Major FBI Sting

A Bold Attempt to Corner
Market in Descramblers
Is Sunk by Secret Camera

Moving Those Hot 'Pancakes'

By MARK ROBICHAUX

Staff Reporter of THE WALL STREET JOURNAL

In a Kenilworth, N.J., warehouse filled with illegal cable-TV boxes, Frank Russo, a suspected kingpin among cable pirates, was asked by an undercover agent if he was afraid of getting caught by the authorities. His reply: "The only way they'll catch me is if they have videotape of me." Nearby, a hidden video camera silently captured the moment.

That tape and other evidence has finally brought down a cartel of cable thieves who brazenly joined forces not just to rip off cable companies: They plotted to corner the U.S. black market in illegal descramblers, which allow consumers to tap into cable without paying for it. Over three years, the pirates built a sophisticated money machine to buy and sell millions of dollars in illicit equipment while leading investigators on a wild ride across three continents, according to authorities.

But last year, the ride ended. The U.S. attorney in Newark, N.J., and the Federal Bureau of Investigation unsealed a 92-count federal indictment that charges people in four states with mail and wire fraud, money laundering and the transport of millions of dollars worth of stolen and doctored cable boxes. Dubbed "Operation Cable Trap" and filed in U.S. District Court in New Jersey, the case details a complex, underground web of fellow pirates and sham companies that Mr. Russo and others cultivated to help hundreds of thousands of Americans steal cable-TV signals.

Felony Indictments

In all, 15 people, including Mr. Russo and a top accomplice, Trey Prevost, have pleaded guilty to felonies. The inquiry continues and more arrests are expected. Both men face lengthy prison terms and will be sentenced this fall. None of the defendants named in the criminal case would comment on their involvement.

The FBI and the U.S. attorney "hooked a big fish and they just let the line run," says Jim Allen, who heads the office of cable theft of the National Cable Television Association, a cable trade group.

A large part of the government's case, say federal prosecutors, was put together with help from America's largest cable-equipment maker, General Instrument Co. of Chicago. In an elaborate sting, both FBI and General Instrument undercover operatives infiltrated the cable-piracy ring, then shadowed Mr. Russo and his associates as they arranged for him and others to buy cable boxes, known as "plain Janes," from General Instrument. Mr. Russo's minions would then take the boxes, fit them with chips that allow viewers to illicitly unscramble premium cable signals such as movie channels, then resell them at huge markups on the black market. A box that cost Mr. Russo as little as \$35 could be sold for as much as \$300; the lure for customers — beating, forever, monthly cable-TV fees.

Mr. Russo's partner was Novaplex, one of several businesses operated by the 30-year-old Mr. Prevost, allegedly an even bigger pirate with operations based in Sun Valley, Calif. Together and separately, the government says, they and others planned and ran operations that, during the three-year period, bought and sold several hundred thousand illegal cable converters valued at about \$100 million.

The cable thieves never failed to show moxie: Once they even stole from the police. In a 1994 heist described in the indictment, they broke into a Los Angeles Police Department evidence warehouse, and made off with 3,500 converters, which Mr. Russo allegedly sold for \$250,000, court documents state. Mr. Russo and his associates zipped around on a 36-foot Mirage powerboat bearing the name "Pirate I," which was moored at a Fort Lauderdale, Fla., marina.

An Old Problem

Stealing cable service has been around since the industry started. It is a market fueled largely by unrepentant customers who don't mind splicing a cable wire for basic service or paying as much as \$300 for an illegal converter box that gives them hundreds of dollars a month in free cable, premium television and pay-per-view movies. Thieves siphon off an estimated \$5 billion annually in lost revenue, and cable operators claim the problem is only getting worse, as subscriber growth levels off in the wake of satellite-dish competition.

Cable is also fighting a public perception: that stealing cable really isn't stealing. "People who would never go into Blockbuster and stuff a video in their pants have no problem taking this little black box and stealing cable," says Mr. Allen of the National Cable Television Association. "They can get one shipped to their door from an 800 number, so the stigma is removed."

Indeed, today's black-box pirates are more sophisticated and organized than ever, selling boxes in bulk through tiers of distributors and retailers who, in turn, advertise descramblers on the Internet and in newspapers and magazines. In a recent issue of Popular Electronics maga-

zine, one ad reads: "Are cable companies sucking you dry?" Above is a picture of a vampire.

Of the wholesale pirates, the government indictment states, Mr. Russo, 49, was among the biggest. A North Miami Beach, Fla., businessman, he operated out of a number of South Florida warehouses, including two in Port St. Lucie, through a company called Leasing Ventures. His forte: figuring out how to get his hands on huge numbers of cable boxes, some illicitly manufactured, others stolen or bought (as those in the General Instrument sting) by ruse or chicanery from legitimate suppliers. He also supplied "pancakes" — a more sophisticated kind of descrambler that sits atop a plain-Jane converter and allows free access to a virtually unlimited supply of premium-cable programming.

Mr. Russo certainly found himself busy; as cable rates climbed in the early 1990s, demand for the illegal boxes soared. Mr. Russo, according to the indictment against him, started out buying shipments of stolen boxes, sometimes through cable-

company employees. In one incident described in the indictment, he sold more than 3,000 cable converters that were stolen from a truck bound for a Scientific Atlanta Corp. warehouse in Arizona. Street value: \$400,000.

As early as 1992, Mr. Russo's business had grown into a family operation, according to the indictment, and included his wife, Joann, 42, who issued wire transfers and checks, and son Frank Jr., who worked at one of several Russo businesses.

A Turning Point

General Instrument came into the picture when the senior Mr. Russo, to help stabilize the erratic supply of boxes, made a move on the cable-equipment supplier. One day in February 1993, Stan Durey, the company's director of security programs, got an unusual call from a former General Instrument employee who had worked in sales in Latin America. The man talked excitedly about opportunities in supplying cable boxes to budding Latin American markets. "He kept pressuring me — which was very uncharacteristic of him — to come meet his partners," Mr. Durey says in an interview.

Mr. Durey and Philip Deming, a General Instrument security consultant, agreed to meet with the man and his partners at the US Air Club at New York's La Guardia Airport.

Mr. Durey says he was introduced to Mr. Russo, who identified himself as the president of the start-up company that wanted to buy the boxes to supply Latin American cable operators. Dressed in a black shirt, black suit and wearing a signet ring with the initial "F" made of eight one-carat diamonds, Mr. Russo drank scotch and smoked throughout the meeting, Mr. Durey says.

General Instrument, like most legitimate cable-equipment suppliers, vets its customers, precisely to keep its boxes out of pirates' hands. When Mr. Durey reminded Mr. Russo of his company's strict background checks on new distributors, the presentation quickly evolved to, "What's your price?" Mr. Durey recalls. "He told Mr. Deming that we could be rewarded for looking the other way." The offer: \$2 million for nine million cable converters, Mr. Durey says. The two men flatly refused the offer and left.

Soon after, Messrs. Durey and Deming met with FBI agents — whom they had approached months earlier about general theft in the cable industry — to alert them of the bribe offer. The FBI, pursuing leads on its own cable probes, arranged a meeting with federal prosecutors in New Jersey. "We traded information and agreed to cooperate further," Mr. Durey says. "That was the beginning of the end."

The FBI then set its trap. Mr. Deming went back to Mr. Russo and sold himself as a General Instrument turncoat who could be bought. He says in an interview that he told Mr. Russo, "Durey doesn't understand the value of a dollar." Since the FBI already had an undercover cable operation at a warehouse in New Jersey doing business as Prime Electronics, Mr. Deming arranged for that store to be the front through which Mr. Russo would get his boxes.

Initially, according to the indictment, Mr. Deming arranged to be paid based on the number of converters he supplied, but later Mr. Russo agreed to pay \$10,000 a month. In lieu of payments from December 1994 to March 1995, Mr. Deming requested — and received — a blue Porsche Carrera II valued at \$40,000.

"I was flabbergasted at how sophisticated the operation was," Mr. Deming

says. "They ran a good business: high cash flow, good quality control, strong marketing. Better than some legitimate cable companies."

Soon Mr. Deming found himself with Mr. Russo at the best tables in five-star restaurants in New York and South Florida. "It was a lot of drinking and dancing, definitely *dolce vita*," Mr. Deming says. "They were always well-dressed and always had plenty of cash." Once, he said, he waited in Mr. Russo's kitchen for his monthly \$10,000 bribe payment. His jaw dropped when Mr. Russo pulled out the stacks of money, hidden in the dishwasher. "There was still a lot left inside when he shut it," Mr. Deming says.

All along, Mr. Russo kept an eye on business. One night in New York, Mr. Russo picked Mr. Deming up in a chauffeured limousine to go test a new descrambler in houses and apartments around Manhattan. The homes were owned by friends of the limousine driver, whom Mr. Deming described as "an attractive young lady." In most of the houses, the descrambler worked, but "not to Frank's liking," Mr. Deming recalled. "The next day Frank shipped it back, and an engineer had it working in 10 days."

Paper Worries

After several months, the Russos began to worry about covering their paper trail to Mr. Deming and Prime, even though the business frequently used false invoices and the interstate shipments of huge sums of cash, according to the indictment. To hide the bribe payments, the Russos created a fake company, Hanson Corp., which would receive payments for Mr. Deming from the Russos' firm, Leasing Ventures, and provide false invoices, the indictment states.

In July 1994, Mr. Russo attempted to hide his trail completely. He flew to the Cayman Islands to set up an offshore bank account to camouflage the transactions.

There, Guardian Bank Chairman John M. Mathewson issued Visa Gold credit cards that permitted Mr. Deming to have access to the Hanson account anywhere in the U.S. without revealing the ownership, according to the indictment.

Immediately, the Russos deposited \$20,000 into the account. Each month, Guardian Bank accepted a check from Leasing Ventures for \$10,000 made out to Hanson Corp. Mr. Mathewson also provided back-dated invoices that gave the appearance that the check was for cable equipment. There was only one glitch in Mr. Russo's ruse, according to the indictment: A Deming associate who had flown with him to the Caymans when he originally opened the account turned out to be an undercover FBI agent.

As business picked up for Mr. Russo, across the country in California, authorities were shutting down another alleged cable pirate, Trey Prevost. His company, Novaplex, lost a civil case with Continental Cablevision over allegedly dealing in illegal pancake and was barred by a federal court in California from the descrambler business, according to papers filed in U.S. District Court in Santa Ana, Calif.

But in October 1994, the rival pirate firms teamed up. Mr. Russo hooked up with Mr. Prevost and his chief financial officer, Anthony Lee Marinaccio, investigators believe, because Mr. Prevost's Novaplex still had a surplus of boxes and steady suppliers in the lucrative black market.

Ambitious Plans

Messrs. Russo and Prevost and a few other defendants soon struck upon an idea: Why not join forces to corner the nation's black market on cable converters? The men hatched a plan to split up the duties and conquer the market, the indictment against them states. Mr. Prevost and Mr. Marinaccio, taking shipments of electrical components primarily from the Pacific Rim, would supply all the pancake parts exclusively to Mr. Russo and his company, which would assemble the boxes. Shipping would be handled by a Russo company

known as ZZ Packaging. The marketing and retail sale would be handled by a firm in North Carolina known as M.O.S. Ltd. They christened the plan "Cable Box Central," the indictment states.

Messrs. Prevost and Marinaccio imported the computer components, the indictment went on, but also used foreign firms to invoice and collect funds. One such company, Hazeltown, registered in Dublin, was used to hide Mr. Prevost and Novaplex's role in the importation of circuit boards into the U.S. Hazeltown's bank account in London was used to collect wire-transfer payments from Novaplex's domestic retailers and to make wire-transfer payments to suppliers of pancake chips, including a company called Digitek in New Jersey.

As the investigation unfolded, FBI agents made a simultaneous raid on 30

homes and businesses in seven states, harvesting months of undercover work. By the summer of last year, prosecutors decided to indict the defendants with the evidence they had gathered. Besides Messrs. Russo and Prevost, the indictments snagged Mr. Mathewson, the Cayman Island banker, and Mr. Marinaccio, the chief financial officer of Novaplex. According to plea agreements filed in the case, Mr. Mathewson has pleaded guilty to various counts of mail and wire fraud and money laundering; Mr. Marinaccio pleaded guilty to various counts of cable piracy. Both await sentencing.

And the U.S. attorney's office isn't finished yet. Prosecutors are now chasing even bigger fish, with possible links to organized crime. Assistant U.S. Attorney John J. Carney says, "If you're a pirate, be scared."

New Media

Security Experts: Internet Awash in Cable Pirates

BY JIM BARTHOLD

There's a lawless anarchy to the Internet that gives it an appealing air of danger: It's the attraction of walking just on the border of legality, or, in some instances, stepping over that border with impunity.

That lawless nature has spawned attacks from cable pirates. Advertising "free cable TV" and "\$10 cable TV descramblers," those pirates have inundated e-mail with scams, according to industry security experts.

A recent letter from "Cableguy" in Folsom, Calif., offered "ALL the premium movies & pay-per-view channels and events in your home every month" to people who sent \$10 to a post office address. Cableguy promised in his letter to provide information on how to use \$12 worth of parts from Radio Shack to build a cable TV descrambler.

Earlier this year, Brad Elder in Oklahoma City promised "ALL the Premium Movie Channels, Pay Per View and Adult Entertainment Channels for ...

FREE. FREE. FREE!" He wanted \$12 for his build-it-yourself instructions.

Both wrote involved stories about the wonders of receiving free cable and how illegal boxes could cost as much as \$300. And both offered caveats that indicated that their offers weren't necessarily perfectly legal.

"Most of the stuff we've seen so far has been scam-like," says Jim Allen, director of the Office of Cable Signal Theft (OCST) at the National Cable Television Association. "That 'build your own' thing might work in a very small percentage of positive trap systems in the United States, but overall it will not work everywhere and it's single channel and it's somewhat misleading. It's more of a scam than it is factual."

Stan Durey, security director in General Instrument Corp.'s Communications Division, followed Elder's instructions.

"What Brad purports to sell is a descrambler," Durey explains. "Having built one of the devices that Brad sells, using plans like the ones Brad sells, what in fact one ends up with is a tunable FM filter. If

you happen to be on a system using positive trapping technology it is plausible that you could use that device to tune out an interfering character on a scrambled channel."

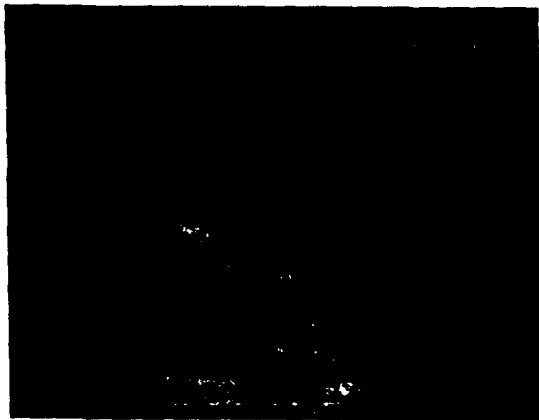
Along those lines, Durey says GI is exploring ways for the Federal Trade Commission to look into that sort of illicit advertising on the Internet, much as the company has pursued pirates that advertise in magazines. Allen says the OCST has dealt in a straightforward manner with the Internet services that happened to carry the materials.

"The online service providers have been more receptive to our request than the print publications have been," he says. "The other thing I've found is that the federal government has been receptive to our inquiries and concerns about this type of advertising."

Durey and Allen agree that the Internet offers a gray area in which those types of pirates move around.

"These people kind of feel that they deal on the fringe of the law and society

See Pirates on page 36



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Security Experts: Internet Awash in Cable Pirates

Pirates from page 22

and what have you," Allen says. "It's almost like a natural vehicle for them as far as putting their wares on the Internet."

It's also almost a natural vehicle for a "sting" operation.

"We have entertained the notion of creating Web sites of our own to find out who out there is shopping around for things," Durey confides, adding, "we would not do that with the intent of bringing action against them."

A sting World Wide Web site, he adds, would be educational.

"If a subscriber were to receive a letter in the mail or an e-mail that said, 'Thank you for your recent inquiry into our Web site in which you expressed an interest in cable signal theft devices. Please be advised that ...'"

From there, the missive would identify the Web site's owner and advise the subscriber of possible problems under state and federal laws.

"If nothing else, it might at least help discredit that particular advertising

medium as a place to buy black market equipment," Durey laughs. "It would hopefully create a lot of chat traffic."

But for now, neither Durey nor Allen is chuckling about the potential for trouble that the Internet offers.

"Are we going to see more of it?" Allen asks rhetorically. "Probably. It's kind of a wide open territory at this point."

Adds Durey: "They certainly occupy that same fuzzy gray area on the Web as porn sellers. I don't see any lawful purpose for their presence." □

Rocklin, CA.

Wednesday, May 7, 1997 Placer Herald Page A3

Illegal receptors

Joseph Scott Cantwell of Fair Oaks was arrested Friday at 6 p.m. after he was found with 24 illegal cable system defeaters. The high tech electronic devices jam cable safety mechanisms and allow reception of unpaid stations.

Cantwell's passenger, who was wanted on a no-bail warrant, was found looking into UPS trucks in the lot on Sierra Meadows Drive.

A search of the truck revealed a parole agent's badge and a forged identification card with Cantwell's photo.

Comcast files lawsuit over decoders

The Orange County Register

Comcast Cablevision sued 19 Orange County residents Monday, accusing them of stealing cable television service through the use of illegal decoding devices.

"Whenever we feel we have enough defendants, we file a lawsuit," said attorney Stuart W. Fest, who filed the action in Orange County Superior Court.

The suit says the 19 defendants were able to view high-level programming, including premium channels and pay-per-view events, while paying partial fees

or nothing.

One defendant is Dinh Khuu, an electrical technician from Santa Ana.

"My brother-in-law had bought a cable box at a swap meet. It made a noise and he asked me to fix it," Khuu said. "I had it hooked up to my set to see if I could fix the noise. These men from Comcast came to the house and asked to come in. I let them in. I didn't know anything I was doing was wrong."

Comcast is seeking up to \$5,000 in damages from each defendant, Fest said.

NCTA Estimates Loss to Piracy at \$5.2B

By JOE ESTRELLA

Cable piracy accounted for \$5.2 billion in lost revenues in 1995, or nearly 20 percent of the industry's annual take, according to a nationwide survey unveiled last week.

The National Cable Television Association study revealed

that the value of pirated basic and premium services jumped by \$400 million a year between 1992 and 1995. The NCTA's last survey quoted total lost revenues of \$4.7 billion a year.

An analysis of the data revealed three primary reasons for the increase in lost revenues:

- Monthly basic cable rates

jumped from \$17.95 to \$23.07 during the years surveyed;

- A larger percentage of homes being passed by the industry provided more opportunities for cable pirates; and

- There was an increase in the number of premium channels taken by each household.

Industry experts, however,

said the study represents only the tip of the iceberg, since pay-per-view revenues siphoned off by thousands of illegal set-top decoders are not included.

"That pay-per-view figure is harder to get your arms around," said Bob Astarita, vice chair of the NCTA's Coalition Against Signal Theft Commit-

tee, which conducted the survey during late 1995 and the first six months of 1996. "But, make no mistake: Pay-per-view piracy is becoming more widespread."

Mike Bates, head of security for Continental Cablevision Inc. in Los Angeles, agreed that the revenue-loss estimates were "conservative," since a cable pirate will easily steal the equivalent of the two or three PPV events that "honest" customers routinely order each month.

Bates said cable pirates have evolved along with the industry, and they now willingly pay for basic service in order to have the means to steal high-dollar PPV events.

"It's pay-per-view that motivates them now, not getting HBO [Home Box Office] or Cinemax," he said.

Raising the specter that the cable industry's theft problem may be larger than projected was news that the NCTA's study was skewed by the fact that only 90 "usable" surveys were returned from a random sample of 400 member companies polled. The systems responding represented 12.7 million homes passed and 7.6 million cable subscribers.

"A majority of cable operators don't have any idea about their cable-piracy problem," Astarita said. "They have the view that, 'It's not me.'" **MCM**

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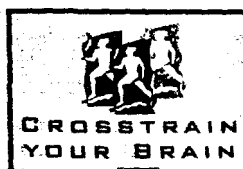
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IFE Exec Polevoy Dies of Cancer

VIRGINIA BEACH, VA. — Roy Polevoy, 50, vice president of creative services at International Family Entertainment Inc., died of cancer on March 29.

Polevoy, who joined IFE in January 1996 as creative director and became vice president a few months later, supervised the creation and production of on-air promotion spots, print ads and graphics for The Family Channel and FIT TV. Doug Symons, IFE's vice president of marketing, praised him for bringing "focus to our on-air and consumer communications with the 'Just Watch Us Now' campaign."

Before IFE, Polevoy spent 20 years at ABC Inc., where he was vice president of on-air promotion for ABC Entertainment and vice president of programming for the ABC-owned stations, among other positions. Prior to ABC, he was research director for RKO Television's CKLW-TV in Detroit, and a media buyer at Ted Bates Advertising.

He is survived by a daughter, his mother and a sister. **MCM**

Pay-per-view thieves risk the bullet and a blank TV

The war on cable pirates escalates tonight

By Barry Carter
STAR LEDGER STAFF

When the Oscar de la Hoya-Per-nell Whitaker boxing match airs to-night on pay-per-view, tens of thousands of New Jerseyans plan to duck the \$39.95 cost by stealing the signal.

But the company delivering the championship bout has a counter-punch it believes will knock out as much as \$20 million in pirated cable service in New Jersey and several other states. It's called the silver bullet, a recoded signal used against larcenous viewers that leaves a blank or snowy television screen.

Mark Taffet, senior executive vice president of TVKO, said cable operators that are carrying the TVKO production will try to sabotage signals to 20 percent to 60 percent of the public that have illegal electronic black boxes to unscramble cable signals.

"There's going to be some anxious moments in households where a lot of people are gathered with food and beverage, with the absence of television," Taffet said.

Comcast, the largest cable company in New Jersey, declined com-

ment on whether it will be among those employing the bullet, saying it's unwise to telegraph its punches. In the past, Comcast has used the technology to disable illegal boxes or to leave an electronic fingerprint to be used as evidence against culprits, said spokesman Bob Smith.

The exact amount of revenue lost through residential cable theft in New Jersey wasn't available, but a national cable association in Washington estimated that 150,000 cable subscribers in the state may receive the fight tonight without paying for it.

When it comes to commercial theft nationwide, violators in New Jersey rank among the top 10, according to Alan Gelb, a Cherry Hill attorney specializing in piracy law. Gelb estimated that 20 to 60 percent of commercial business in the state steal major fights, and that figure is expected to hold tonight.

"If there is a big number of residential and commercial purchases, there should be a high percentage of theft," Gelb said.

Taffet said residential theft of services can cost fight promoters and cable operators from \$10 million to \$20 million in revenue. They hope to recoup that with the bullet technology. In fact, Taffet said, past usage of the silver bullet on a test basis has shown that buy rates for pay-per-view events increased 30 to 50 percent.

The bullet, according to experts in the cable field, is successful 80 to 90 percent of the time it is deployed.

Jim Allen, director of the National Cable Television Association's signal-theft office, said the electronic countermeasure is beneficial in reducing piracy but comes with the usual risk, that pirates will discover how to defeat it.

"It's somewhat like a chess game we play with the pirates," he said. "There are people working on the other side of the fence to see how they did this."

While the electronic signal is out fuzzing up residential television screens, private investigators hired by fight promoters and cable operators will be checking bars and restaurants to ensure the fight is being shown legally.

Commercial establishments — sports bars, restaurants, go-go bars — are not allowed to show the event unless they reach a financial agreement with the promoter, said Jimmie Mesis, a private investigator and president of the National Anti-Piracy Association, based in Fairfield.

To get the fight, according to Mesis and Gelb, a commercial owner has to pay promoters \$12.50 multiplied by the number of people the establishment holds.

Mesis said his association has a list of businesses licensed to carry the fight and will recruit some 500 private investigators tomorrow to find out who is violating federal statutes that protect the public display of a copyrighted event.

Surveillance information then will be turned over to attorneys for cable operators and fight promoters, who wind up collecting an average of \$10,000 in fines from establishments stealing the signal.

But there are other problems in forcing compliance. The Internet, for example, has instructions on how to build a descrambler, which resembles a standard cable box that sits atop the television.

Cable TV pirate's shop found as police respond to 911 call

By JACK REITMAN
Herald Staff Writer

Hialeah Police, responding to a 911 call, discovered the workshop of a cable TV pirate who had been reprogramming converter boxes to receive channels from Florida to New York.

Jose Raul Suarez, 57, was arrested Thursday on a handful of theft charges after representatives from Dynamic Cablevision, TCI and Adelphia identi-

fied scores of stolen converters and verified that someone had been tapping into their signals.

When police arrived at Suarez's West Hialeah home Wednesday night, they didn't know what they would find.

Along with a robbery victim, they discovered 256 cable converters worth \$200 to \$300 each, as well as computer chips, reprogramming equipment and tools. Total booty: more than \$220,000.

"He had a complete workshop set up," Sgt. Bill O'Connell said. "What he was doing was buying cable boxes, reprogramming them with computer chips and then keying in all the companies

"For the same price as regular cable, he'd give you every single channel."

Police discovered the workshop about 8:30 p.m. Wednesday.

Here's what police reported:

Suarez's girlfriend, Ana M. Rivera, had been home alone when she heard a knock at the door and a man asked to speak to her or Suarez.

When Rivera opened the door, she said the man grabbed her by the hair and said, "I don't want Jose Raul, I want the money."

Rivera kicked the man and tried to run, but another robber caught her and pistol-whipped her once in the lip. While the robbers ransacked some draw-

ers in the master bedroom, Rivera dialed 911 and slipped the phone off the receiver.

Realizing what she had done, the robbers fled. When police arrived, they found an injured Rivera and the cable boxes, Detective Kevin Balter said. He called Dynamic Cablevision, which verified some boxes had been stolen and modified. Then he arrested Suarez — who showed up while police were there.

Suarez, of 1085 W. 51st Pl., faces charges that include dealing in stolen property, possession of altered property, unauthorized reception of cable TV and obtaining services by fraud. He is being held in lieu of \$14,500 bail at the Turner

Guilford Knight Correctional Center.

Police also seized a Rolodex that lists Suarez's clients. They said more arrests are possible.

Cable TV theft is a \$5.2 billion industry in the United States, said Phil Gal-lub, operations director at Dynamic Cablevision. Suarez's operation alone likely cost local companies and cities hundreds of dollars in lost fees a year per box, said Curt Batman, operations manager at Adelphia.

"It was a big operation," said Ted Iturrioz, a TCI security and facilities supervisor. "We found the channel line-ups for all the state of Florida (up to) New York."

"Silver bullet" should scare away wolves who pirate pay-per-view fights

Promoter Bob Arum fired the first shot when he went back to closed-circuit TV for the Oscar de la Hoya-Julio Cesar Chavez fight last June. This time, cable operators are loading the bullet for him.

The "silver bullet," that is.

Cable pirates expecting to steal the April 12 super fight between Pernell Whitaker and the unbeaten de la Hoya on **TVKO** should make alternate entertainment plans for the evening, Arum warned yesterday.

Arum revealed that before he agreed to put next week's showdown on pay-per-view, he got assurances from major cable operators that they would use an expensive signal-scrambler known as the "silver bullet" to combat cable theft.

"I would have gone back to closed circuit (without it). Nobody is going to stick me up with a gun," Arum said.

The commitment by cable operators was financially significant, according to Mark Taffet, senior vice president for TVKO.

Operators will shell out in "the mid seven-figures" for use of the "silver bullet," which encrypts a signal so that it can be picked up only by legal converter boxes.

Given the projected TV gate, the cable industry should barely feel the pinch.

"Whitaker-de la Hoya potentially could be the highest-grossing non-heavyweight fight in pay-per-view history," said Taffet, who negotiated the second marriage between Arum and cable.

Arum expects the gross could reach \$40 million.

"In the beginning, with all the heat and publicity this fight was generating, we felt we had a reasonable shot to do a million homes (at about \$39.95)," Arum said. "We're very confident that's in our sights now, and it could even exceed one million."

Last year's de la Hoya-Chavez fight took in about \$26 million at theatres.

"People still debate whether I



Nat Gottlieb

SPORTS ON THE AIR

could have made more money on pay-per-view, and they're probably right that I would have," Arum said. "But I felt you can't keep letting people steal money from you. It was like having a candy store with a sign outside saying, 'Come in, it's OK to stick us up.'"

Taffet said cable piracy is estimated to account for 20 to 60 percent of the viewership on any given event.

Arum believes his maverick move into the theatres last year woke up the cable industry.

"Oh, absolutely. It's different when people (operators) feel they're the only game in town. I showed that

if it (theft) got intolerable (to promoters), there were other ways to go. That astounded them. This time, they were thinking, 'That promoter's crazy, he's liable to do anything.'"

Arum said.

Because of the anti-theft assurances, Arum, in turn, made his first multi fight commitment with pay-per-view, a three-bout deal for de la Hoya with TVKO.

The "silver bullet" technology has been used in selected urban markets the last six months on a test basis, and Taffet said "the buy rate increased between 30 and 50 percent. It worked. People went out and got a legitimate box."

The alternative for hosts throwing fight parties could be very unattractive.

"You don't want to be home with 26 guests and all that food and beverage on hand and have the signal show up as snow," Taffet said.

Bulls-eye.

Jim Lampley, the **HBO** boxing announcer, underwent surgery thi-

S-A Wins Piracy Battle

A convicted cable pirate has been ordered to pay Scientific Atlanta Inc. \$25.4 million for selling altered set-top boxes, according to the vendor.

A U.S. District Court in Atlanta last week ordered Jeffrey Fenley, operating as National Electronic Wholesalers in Santa Monica, Calif., to pay SA \$21.3 million for violating a federal law that bars the sale of altered set-tops to gain unauthorized access to cable service. Fenley also was ordered to pay another \$4.1 million for infringing on S-A's trademark and false advertising. The court also issued a permanent injunction ordering National Electronic Wholesalers from advertising or selling devices designed to steal cable service.

The court ruled that using disclaimers in ads for altered boxes isn't a viable defense and that the plaintiff didn't have to show that the defendant intended to violate any laws.

Jones Computer Net Plans To Go Dark

Jones Intercable will stop operating Jones Computer Network May 1 and move all JCN programming to Knowledge TV. Jones launched JCN in 1994, anticipating widespread upgrades and increased channel capacity in the domestic market, according to a Jones spokesman. He added that the company may reintroduce JCN as a digital service when cable system space opens up.

Time Warner Files Telephony Tariffs

Time Warner Inc. filed rate tariffs last week in Ohio, indi-

cating that it would undercut Ameritech's business rates by 10% to 15%. The pricing still must be approved by the state PUC. Time Warner also said it would begin to negotiate a local interconnection deal with Cincinnati Bell. Service in Columbus, where the company has an interconnect agreement with Ameritech, is expected to begin this summer.

Study: TV Violence Still a Problem

"There has been no meaningful change in violence on television since last year," states a study released last week by the University of California, Santa Barbara. The study that looked at more than 2,000 hours of TV programming from 23 broadcast and cable networks also said "violence on TV is still frequently glamorized and sanitized." The NCTA, which helped sponsor the study, said, "Clearly more work needs to be done to deal with violence on television."

Viacom Store To Open in Chicago

Viacom Inc. will try to duplicate the success of the Disney Store and Warner Bros.' shops by opening its first retail shop in May in Chicago, according to the *Los Angeles Daily News*. The two-story, 30,000-square-foot Viacom Entertainment Store will feature merchandise from some of the company's most well-known brands, including *Star Trek*, Nickelodeon and MTV. Viacom plans to open two or three more outlets in the next few years, according to a

SOUNDBITES

International

ESPN Latin America says it's in more than 8.5 million homes.... **USA Latin America** and **USA Brazil** will carry **Citibank** advertising and produce exclusive programming tied to the bank-sponsored Latin American tour of the **New York Philharmonic** orchestra this summer.... U.K. regulators have asked broadcasters for details about their plans to launch digital terrestrial TV.... Japan's **Dentsu** will distribute 260 hours of **HGTV** programming on **The Home Channel**.... **NBC** is offering Latin American operators **CNBC** as a temporary replacement for **Canal de Noticias**.... France's **Generale des Eaux** is expected to sell its French cable operations to **Time Warner Inc.**

People

Fred Bristol is executive marketing director and **Jeff Storey** is broadband services director at **Cox Communications**.... **Trilogy Communications** has named **R. Jeff Morris** VP-national operations for the cable, cellular and SMR markets.... **Lon Troxel** is COO of **DMX**.... **Scott Perlmutter** is sales/marketing director for **MuchMusic's** western region.... Ex-**Alcatel** exec **David Orr** has been named **BroadBand Technologies'** president-CEO; **Salin Bahtia** moves up to chairman.... **Charles Emley Jr.** is COO of **Pico Products**.... **Karl May** is VP-GM of **Bay Networks'** data-over-cable division; he succeeds **Rouzbeh Yassini**.... At **HBO**, **Daniel Yankolevits** is west coast director of business affairs.... **Shuji Utsumi** is VP/GM-product development at **Sega of America**.... **U S West Media Group's** **Chuck Lillis** has joined the board of **Ascent Entertainment Group**.... **Robert DeBitetto** is executive VP of **TNT Originals**.

New Media

Time Warner is launching **Road Runner** in Portland, Maine.... The **T. Howard Foundation** says it has placed 37 interns with DBS companies for the summer.... **AlphaStar** plans to raise \$100 million.

Marketing

State Cable of Augusta, Maine, serving 75,000 customers, has been named the **Kennebec Valley Chamber of Commerce's** Business of the Year.

Programming

Bell Atlantic planned to file program access complaint at FCC March 28 against Cablevision Systems.... **HGTV** preempted its regular March 30 programming to air *After The Flood: A Public Service Guide from Home & Garden Television* at 6:30 a.m., noon and 6 p.m. (ET).... **Cinemax's** *Breathing Lessons* documentary won an **Oscar**.

spokesman quoted in the newspaper article.

Online Subscriptions Soar in 1996

Online subscriptions reached 21.1 million in 1996 — a 45.5% increase over 1995, according to *Electronic Information Report's* 1996 "Online Subscriber Survey." That growth was fueled by a migration of proprietary information services, including the Microsoft Network and LEXIS-NEXIS, to the Internet's World Wide Web, according to the study.

NumereX Acquires Broadband Networks

Broadband Networks Inc., a small Pennsylvania company that specializes in interactive fiber-optic networks, has been acquired by **NumereX Corp.**, a Pennsylvania-based holding company.

CLARIFICATION

Starz! has 5.1 million subscribers and its break-even point is 12 million subscribers, not 3.5 million and 7 million, respectively, as reported in the March 24 issue of *Cable World*.



SNAPSHOT: U.K. CABLE

	Jan. '94	Jan. '95	Jan. '96	Jan. '97
■ HH passed	2.78M	4.11M	6.04M	8.35M
■ TV subs.	611,423	908,018	1.32M	1.87M
■ Telephony lines	314,381	717,586	1.41M	2.28M

Sources: Independent Television Commission; U.K. Cable Communications Association

Paragon sways pirates to take cable amnesty

By MARTY SABOTA

EXPRESS-NEWS STAFF WRITER

Amnesty converted almost half of Paragon Cable's 1,623 cable pirates to paying status, the company said in announcing results of a campaign to seek out and crack down on illegal hookups.

As promised, no one was prosecuted as a result of the company's audit, a random review of 50,000 households throughout the city, Paragon President Navarra Williams said Wednesday at a news conference.

Cable thieves who opted to become legal during the amnesty period paid a \$10 fee for cable installation compared with the \$13.97 that new customers are charged.

The company sent out 200 technicians across the city on March 1 to offer amnesty through March 15 to any household discovered with an illegal cable connection.

If cable pirates did not wish to become paying customers, technicians simply disconnected their unauthorized hookup.

"The percentage of those who chose to convert their illegal con-

nections to become good Paragon customers far exceeded our expectations," said Williams, adding that Paragon has 285,000 paying households.

At one trailer park, Williams said they discovered that all 42 units were connected to cable, but only 18 were paying customers.

The no-questions-asked "Amnesty Day" program will be repeated three more times this year.

"We want people to understand we're not done," Williams said. "Eventually we will hit every home."

The cable company estimates that 25,000 residences get some type of cable free — ranging from HBO to entire service — either through theft or ignorance.

"It's difficult to convert someone who's not paying," he said of the reason for the campaign, in which employees identified pirates by climbing poles and checking ground-level cable boxes.

Paragon officials said cable theft costs the company \$10.8 million in revenue and robs the city of \$500,000 in franchise fees and taxes annually.

Calif. Firm Tries to Take Sting Out of Piracy

By JOE ESTRELLA

While Evander Holyfield battered Mike Tyson in Las Vegas last November, Secure Signals International was scoring points of its own against cable pirates nationwide.

As of two weeks ago, the San Rafael, Calif.-based security firm said it expected to recover \$250,000 in lost pay-per-view revenues for its clients, while taking 1,500 illegal set-top boxes off the streets, as a result of undercover stings conducted that night.

But what made the stings unique was that they were conducted at no cost to SSI's clients under the only known industry security program that eliminates the roadblock that prevents most MSOs from addressing cable theft: money.

"Historically, the problem was committing the budget resources for an unknown return," said SSI CEO Stan McGinnis, the man who introduced the program last year.

SSI underwrites the cost of an undercover sting, as well as the expense of contacting the residential cable pirates identified and negotiating settlements that average \$2,000 apiece. It also covers the cost of litigating the remaining cases in civil court, where

damages can reach \$10,000 per offense.

McGinnis said that by using SSI, the cable operator distances himself from the public relations nightmare that goes with chasing after individual end-users.

"But we talk to these people with the same degree of sensitivity that a marketing person would," he said. "We explain what their situation is, the consequences, and work with them to resolve it."

SSI was formed five years ago by a group of industry security experts, who could devote only their off hours to it. McGinnis came on board last year.

A former Navy Seal, McGinnis heads a team of licensed private investigators and certified fraud examiners that last year recovered \$1.5 million in out-of-court cash settlements, took 20,000 bogus set-top converters out of circulation and filed 187 civil court cases.

For its efforts, SSI receives up to 65 percent of the funds it recovers. The operator gets a check for the rest — money that can go immediately to pad the bottom line, or fund other security measures.

"What we offer is 35 percent positive cash flow, without a cent being spent," McGinnis said. "But if we don't recover a



SET-TOP STINGS: Secure Signals International said it helped operators recover \$250,000 in lost pay-per-view revenue due to piracy of the November Mike Tyson-Evander Holyfield fight.

dime, the operator is not obligated to spend a dime. The idea is to generate positive cash flow that hopefully they can use for security purposes."

In addition to its free undercover stings, SSI's hourly and flat-rate services include reviewing MSOs' hiring practices, physical security oversight, management and customer-service representative training, and monitoring external and internal theft.

Sometimes these company reviews yield ancillary benefits.

Like the review of three cable installers that led to a local storefront that housed a

regional distributor of illegal set-top descramblers. When arrested, that distributor gave up a national distributor who is the subject of an Federal Bureau of Investigation inquiry involving the sale of \$2 million a month in bogus set-top sales.

"The impact of this individual's actions on my client would be well in excess of \$1 million," McGinnis said. "But when this particular guy is shut down, you're going to have to ask yourself how much of what he did affected the industry nationwide."

But SSI's initial goal is to provide an operator with an immediate increase in cash flow, without any out-of-pocket expense.

C.J. Hirschfield, vice president of industry affairs for the California Cable Television Association, isn't surprised that operators who grudgingly accept losing customers to legitimate competitors would take a look at SSI's service.

"You have to look at the big picture," Hirschfield said. "You have to give it a second thought. Especially since it doesn't cost anything up front."

So far, SSI's list of clients includes such familiar names as Prime Cable, Harron Communications and TCA Cable TV Corp., as well as larger MSOs that prefer to remain anonymous.

A no-cost program that provided a 35 percent spike in cash flow was a "no-brainer" for Robert Kijowski, senior audit manager at Prime Cable in Las Vegas, a 260,000-subscriber system where it's estimated that 25,000 illegal viewers are not on the books.

SSI had already produced \$27,000 in new revenues for Prime Cable in just one month by identifying local residents known to have purchased illegal set-top converters. The names came from an SSI database containing dis-

tributor lists seized in other sting operations nationwide.

Kijowski said the money went to fund an internal account that will pay for other undercover operations as well as additional manpower to fight theft of service.

"Plus, if the company sees that you're bringing in this money, maybe it will be willing to devote more money to security," he said.

Catching those pirating the Tyson-Holyfield fight in Las Vegas proved to be deceptively simple. Viewers were invited to call in and register to win a cash prize or promotional poster via a crawler that appeared along the bottom of the screen, producing an "electronic fingerprint" that allowed Prime Cable to determine who was not authorized to receive the event.

"And it didn't cost a dime," Kijowski said. "My response to Stan was 'where were you five or six years ago?'"

Like most cable operators, Cable Co-Op, the second-largest operator in the San Francisco Bay region, was "relatively unaware" of the level of cable theft going on until a tap audit a few years ago revealed that nearly 6 percent of its homes passed were pirating service.

"We were approaching the problem on a systematic basis," said Brad Anderson, Cable Co-Op CEO and general manager at the 27,000-subscriber system in Palo Alto, Calif. "The problem is that a systematic approach can also become labor intensive."

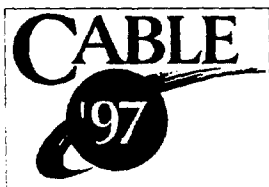
Instead, it brought in SSI to handle the illegal connections its tap audit identified, and in three years has taken 5,000 illegal set-top converters off the streets. It now stands to get \$18,000 from 12 settlements currently under way with consumers SSI caught stealing the Tyson-Holyfield fight.

McGinnis said most MSOs are still struggling with the "failed philosophy" that customers forced to pay up after being caught stealing premium and pay-per-view services will retaliate by dropping their basic package.

If so, he wondered, why did three-fourths of the pirates snared in the Las Vegas sting subsequently upgrade their cable service?

"Because they missed the service they were getting," McGinnis said. "The marketing guys are worried they're going to lose the \$25 a month that person has been paying. Instead, the reverse is true. They're becoming expanded basic and premium customers." ■

Jones Supports TCI's Crackdown



By LINDA MOSS

NEW ORLEANS — Glenn Jones, chairman and CEO of Jones International Ltd., chimed in last week to voice his support for Tele-Communications Inc.'s efforts to crack down on climbing programming costs.

Lauding TCI for its "very intelligent, logical and very required" effort to stop skyrocketing programming costs, Jones said, "There really has to be some discipline ... We look to their [TCI's] leadership ... What they're doing needs to be done."

At a press briefing during the National Show here, Jones was asked about the recent heightening of tensions between networks and operators over programming costs,

which was exacerbated when TCI dropped some popular networks in some of its markets. Jones said, "Our attitude is that except for one or two networks, we can take off a network and live with the agony [of subscriber complaints]."

Jones has some experience in this area. The MSO took USA Network off its systems in 1988 in a dispute over content and programming costs, only to restore the service a few years later.

While Jones said his MSO does have some strategic ideas about how to get programming costs under control, he wouldn't reveal them or say if Jones planned to drop any networks. He suggested that networks charging the biggest rate increases be placed on tiers, so that people have a choice on paying to see them.

Regarding the threat that the so-called Death Star merger of Rupert Murdoch's American Sky Broadcasting Inc. direct-broadcast satellite service and EchoStar Communications Corp. poses to cable, Jones said, "Our attitude is

not one of complacency. We know that's serious competition ... But with the right blocking and tackling and guerrilla marketing, we'll be OK."

However, the Murdoch competitive threat won't make Jones rush to roll out digital set-tops immediately. Such a rollout could be 18 months to two years in the offing, or "never," Jones said.

"We feel pressured, but the Russians are in New Jersey. We don't have to panic," he added.

The MSO plans to do some marketing tests of the digital boxes this summer.

Discussing Murdoch's efforts to get additional cable carriage for Fox News Channel, even as his DBS Death Star is threatening operators, Jones said, "I don't think people generally want to buy bullets for the gun that's going to shoot them."

But Jones added that he doesn't think that Murdoch really means all of the anti-cable rhetoric he voiced at the time of the EchoStar announcement. ■

Illegal cable TV hookup alleged

Man's third arrest could bring more time in jail

BY STEVE HOFFMAN

The Cincinnati Enquirer

HAMILTON — A Hamilton man was arrested Thursday night for allegedly hooking into cable television service illegally, the third time police have charged him since June.

He lost two fingers the last time he tried to get free cable.

Sherman Fleetwood, 43, of Minster Street was climbing down a ladder from a utility pole

hookup in the 300 block of Riverside Drive at 8:42 p.m. Thursday when Hamilton Patrolman Trent Chenoweth took him into custody.

Officer Chenoweth had just left a Neighborhood Watch meeting a block away in the German Village Carriage House when he observed Mr. Fleetwood.

Mr. Fleetwood, who was charged with tampering with cable TV and obstructing official

business, was released on his promise to appear March 6 in Hamilton Municipal Court.

If he is convicted, he might have to make up a considerable amount of jail time from his two previous cable cases.

When he was caught June 29, Mr. Fleetwood was charged with cable TV tampering and criminal trespassing, ordered to pay restitution, placed on two years' probation without the need of re-

porting and given a 30-day suspended jail sentence.

Then, Mr. Fleetwood walked into the Front Street police station July 9 and told officers he had just lost two fingers in an accident. He was taken to Mercy Hospital Hamilton for treatment of his left hand, which was minus two fingers.

On July 10, a worker for TCI Cablevision of Ohio opened a cable box in the 500 block of South Front Street and found two fingers. "Apparently, the box snapped shut before he could get

his hand completely out," said Hamilton Police Detective Dan Pratt.

Police then charged Mr. Fleetwood with attempted theft and criminal trespassing. In court, he was given another two years' probation without need for reporting and a 90-day jail sentence, 60 days suspended.

Craig McCrystal, general manager of TCI Cablevision of Ohio in Middletown, did not return a phone request for comment Friday.

ongoing dispute reaches an unfavorable resolution, the company said Tuesday.

The earnings announcement was followed by a plunge in the company's stock value. The share price fell \$13.75, to finish the day at \$9.50. By mid-morning today, the stock had dipped further to \$9.375.

Stock trading in ClinTrials was halted temporarily Tuesday when volume reached 35 times the daily average.

As recently as a month ago, ClinTrials' stock had traded at \$31.25 per share.

— FROM BANNER STAFF AND WIRE REPORTS

Have a business story or tip? Call us at 259-8281 or send a fax to 259-8890. Our e-mail address is Nashville.Banner@Nashville.com



Rio Bravo Cantina, a popular West End Avenue restaurant since 1990, is expanding in the Midstate with three new locations.

A second Rio Bravo opened in the Rivergate Mall area last week in the former Chi-Chi's Mexican Restaurante building at 1705 Gallatin Road.

Marietta, Ga.,-based Rio Bravo International Inc. is opening two other restaurants — one in Clarksville in early summer and another in Murfreesboro in late summer.

"Nashville's a great market," says Rio Bravo President Phil Hickey. "There's been continual long-term growth about the marketplace, and there's a real enthusiasm, especially downtown."

The new Rivergate store is just around the corner from another Mexican restaurant — El Chico.

But Hickey isn't concerned about the competition.

In every market that we have a Rio Bravo, we have another Tex Mex competitor, and we do well. There's plenty of business for everybody.

Phil Hickey
Rio Bravo president

"In every market that we have a Rio Bravo, we have another Tex Mex competitor, and we do well," he says. "There's plenty of business for everybody."

Says El Chico Assistant Manager Delia Cooper: "It's going to create competition, but we do a good job at taking care of our guests."

Cooper adds that El Chico has been renovating many of its restaurants,

location, which has a new bar and a fresh coat of paint on the outside.

With 7,100 square feet and seating for 243 diners, the Rivergate Rio Bravo, like the West End location, has an outside patio for warmer months.

After interviewing more than 1,000 people, the store hired 120 employees to staff the Rivergate store for lunch and dinner service.

That's about the number of people who will be employed in Clarksville and Murfreesboro.

"The number of colleges and universities in Nashville has been a good base of employees for us," Hickey says.

Rio Bravo's menu includes a Tortilla Club Sandwich, Vegetarian Black Bean Soup, Cancun Shrimp and a Burrito del Mar (a seafood burrito).

Rio Bravo International operates 22 restaurants in six states. It was bought by Kansas-based Applebee's International about two years ago.

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Cable firm sues 57, alleging illegal access

Action is InterMedia's 1st effort in area against homeowners

By Cree Lawson
BANNER BUSINESS WRITER

Bringing home the point that stealing its services is illegal, cable provider InterMedia Partners has filed a lawsuit accusing 57 residential users of tapping its service without permission.

The lawsuit, filed Monday in U.S. District Court, seeks at least \$10,000 in damages from each of the alleged violators.

"We want to get the message out that this is simply not acceptable," said InterMedia General Counsel Bruce Stewart. "This is

part of an ongoing and much larger campaign to educate customers about cable theft."

The lawsuit marks the first time InterMedia has sued area homeowners over allegations of cable theft since the company acquired the local Viacom network last year.

New InterMedia General Manager Wayne Vowell said the company has been "much more aggressive" in approaching those it suspects are stealing the company's services.

"I will not have our customers subsidizing thieves," Vowell said.

"It will continue until the thieves are eradicated. It's unfortunate that we had to get into this kind of thing, but we just will not tolerate it."

The company says 5 percent to 15 percent of those who receive its services may be involved in illegal activity. Industrywide cable theft is estimated to cost more than \$1 billion a year, Vowell said.

Those costs are passed on to customers, the company said.

"I don't want our paying customers negatively influenced by them," Vowell said.

A month ago, the company

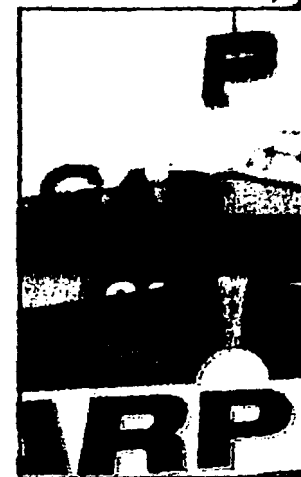
sued J.O.B. Billiards Club in Madison, alleging that the club had broadcast a University of Tennessee football game in August without paying for it.

Using a new security system endorsed by the manufacturers of its cable equipment, InterMedia identified potential abuse last year and sent notices to more than a thousand customers, asking them to settle with the company for \$850 each.

"Several hundred" of those people have come forward with the \$850 settlement fee, Stewart said.

The 57 individuals named in the most recent lawsuit have not settled with the company, he said.

Pass the P,



Tom Maddox (operating t Division Street Carpets, at Townsend waits atop the s

From "Nashville Banner" 2/26/97

New Jersey Law

A Public-Private Prosecution Prevails

By Tim O'Brien

In a case that provides a blueprint for public-private joint prosecutions, the cable television industry, which claims to lose more than \$2 billion a year to signal piracy, helped FBI agents bring down the biggest cable theft ring ever uncovered.

Begun in the early 1990s, the sting, known as "Operation Cabletrap," led to the confiscation of more than 50,000 illegal converters or descramblers — so-

called black boxes — at 25 locations in seven states. The government is seeking forfeiture of the \$10 million in assets confiscated in the raid and of other properties owned by the defendants.

The National Cable Television Association provided the federal investigators with technical support, an undercover operative and a full dossier on the nation's top suspected cable thieves.

Twelve defendants pleaded guilty last month in federal dis-

trict court in Newark to charges in a 93-count indictment that included conspiracy, receipt and sale of stolen property, wire fraud, and unauthorized reception and use of cable television services. Two other defendants have not yet pleaded.

James Allen, director of the NCTA's Office of Cable Signal Theft in Washington, D.C., says the success of the probe "proves what the cable industry has long

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A Public-Private Prosecution Prevails

CONTINUED FROM PAGE ONE

suspected — that cable piracy is a structured, organized effort to commit sophisticated technological crimes on a large financial scale."

The NCTA's point man is Walter Timpone, formerly chief of special prosecutions in the U.S. Attorney's Office in Newark.

Timpone, now a partner with Morristown's McElroy, Deutsch & Mulvaney, worked on cable piracy cases in the mid-1980s, shortly after the Telecommunications Act of 1934 was amended to upgrade cable piracy from a misdemeanor to a felony.

Operation Cabletrap had its origin in late 1984, Timpone says. Buyers of illegal converters complained to postal inspectors that they received a shoddy product from a mail order. "What we did at that time was realign the victim, from the individual to the cable operators, who were the real losers," says Timpone.

By early 1992, with a national investigation already begun, the FBI set up a storefront business in Kenilworth called Prime Electronics and Security Inc., run by an agent and a local police officer.

Prime Electronics sold what cable pirates wanted: converters and descramblers that allow paying customers of legitimate cable companies to view premium or pay-per-view channels. Those black boxes would be modified and resold illegally.

By late 1992, the investigation had widened considerably, thanks to new information from the Coalition Opposing

Signal Theft (COST), a committee made up of representatives from cable franchise operators, programmers such as Showtime and HBO, software companies, and hardware manufacturers.

COST representatives went to Newark in late 1992 to meet with prosecutors. Among them was Stanley Durie, director

were looking at a \$250 million to \$500 million criminal enterprise that was a RICO conspiracy. They traded with each other, and it was very clear to us [in the industry] that they were all on each other's Rolodex. When one got caught, the others would get him new [a] product."

Durie says he and his association colleagues met with Michael Guadagno, the veteran chief of the frauds division in the U.S. Attorney's Office, along with other prosecutors and FBI officials, where he says the group turned over their dossier.

Guadagno and the two assistants who have been handling Operation Cabletrap for years, John Carney and Donna Galluccio, say they are not at liberty to discuss the case because it is ongoing.

But Allen, Durie and Timpone say that the new information turned the case into a truly national and international operation. The indictment seems to bear that out.

According to the charges, a ring led by Frank Russo of North Miami Beach, operating through a Florida company called Venture Leasing, set up an offshore bank account in the Cayman Islands.

Much of the money that was funneled to the account was used to pay bribes to a security agent at General Instrument in the Philadelphia area.

The security agent was actually a former federal agent who agreed to pose as someone who would help the ring gain

access to General Instrument converters for bribes of \$10,000 a month.

On one occasion, the Russo ring paid off the undercover agent with a Porsche valued at \$40,000 to cover four months, the indictment says. The chairman of the bank in the Cayman Islands set up a VISA card along with the account so that the security agent could get his bribes more conveniently and surreptitiously.

The indictment contains money-laundering counts against several defendants, including the banker, John Mathewson of San Antonio, who is awaiting trial.

Durie says General Instrument was able to boost the probe along by using the company's outside security agent as an undercover investigator when members of the ring approached him in 1993.

"I was approached and invited to meet a business partner of a former General Instrument man," says Durie. "The former employee was trying to set me up [with someone who would sell out the company]. So we were able to place this security agent, a former federal agent, as a Judas, sellout, and he started working with them."

General Instrument, according to Durie, also fed products to the FBI. Prime Electronics to keep the storefront company going as a player that could supply the ring with boxes and components, assemble descramblers, sometimes called "pancakes" because of their flat shape.

In addition to the Russo ring, Operation Cabletrap also caught a West Coast cable pirate, William "Tre" Prevost III. Prevost, who pleaded guilty to theft of cable services on Feb. 7, had been operating two companies out of San Valley, Calif., according to Assistant U.S. Attorney Galluccio.

According to the indictment, Russo and Prevost operations joined together in February 1994. Prevost's m-

By early 1992, the FBI had set up a storefront business in Kenilworth called Prime Electronics and Security Inc., run by an agent and a local police officer.

of security programs for General Instrument Corp., the company which dominates the market for integrated converter descramblers — or "set-tops" — sold to cable operators.

"We put together a dossier of those we believed were pirating," says Durie. "We



The National Cable Television Association, represented by Walter Timpone, left, provided investigators with an undercover operative and a dossier on the nation's top suspected cable thieves.

company, Novaplex Inc., had been sued by an operator called Continental Cablevision, and a California judge permanently enjoined Novaplex from making, selling and distributing pancake-type descramblers.

To circumvent the order, Prevost's companies shipped components to Russo's operation in Florida, where they would be assembled into descrambler units. Once assembled, they were marketed out of North Carolina, and often

shipped by an aircraft company operating in Elizabeth.

The indictment also charges that the ring bought and sold 3,500 converter cable boxes that were stolen from the evidence locker of the Los Angeles police department; bought and sold \$800,000 worth of converter boxes that were heisted from a cable operator near Baltimore; bought and sold 200 boxes stolen from cable companies in Philadelphia and Baltimore; and purchased for resale 3,000

boxes, valued at \$400,000, that were stolen off a tractor-trailer heading from a California warehouse to Arizona.

What's Next

As big as Operation Cabletrap is, it could be just the first wave of several more prosecutions around the country, says NCTA outside counsel Timpone. He agrees with Durie and Allen that most cable pirates are loosely associated, and

he notes the obvious, that the government continues to develop more expertise in tracking and prosecuting such rings.

Timpone adds that the market could dry up a little if cable operators go after individuals who have bought the black boxes and have been getting free cable for months or years. Among the items confiscated in the raids were customer lists with tens of thousands of names across the country, prosecutors say.

The association estimates that each black box sold costs the industry close to \$2,500, assuming what an average subscriber buys and calculating the box's expected seven-year life span.

Moreover, some of those who have pleaded guilty, including Frank Russo and Trey Prevost, have signed cooperation agreements with the government.

Timpone says there are active prosecutions around the country already. He cites a recent guilty plea in Atlanta, where the defendant, Joseph Abboud, was assessed a \$1.8 million fine.

Durie of General Instrument says it is not surprising that stopping this type of theft is so tough. He estimates that the entire cost of modifying a converter box and selling it, including the advertising and shipping costs, is only about \$25 a unit. "And these boxes sell on the black market for \$300 to \$400, so you can see it's a very lucrative business." ■

The indictment naming Russo, Prevost and Mathewson, among others, is available on Counsel Connect in LIBRA, under "N.J. Law Journal Full-Text Documents." See page 22 for details. Senior writer Tim O'Brien can be reached by e-mail at toebrien@counsel.com.



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